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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------|------------------|
| 10/723,717 | 11/26/2003 | Steve Postma | 136851SV/YOD GEMS:0245 | 9773 |
| 7590 | 06/02/2006 | | EXAMINER | |
| Patrick S. Yoder FLETCHER YODER P.O. Box 692289 Houston, TX 77269-2289 | | | LIEU, JULIE BICHNGOC | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2612 | |

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,717

Applicant(s)

POSTMA, STEVE

Examiner

Julie Lieu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-14 and 27-29 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 15-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to Applicant's amendment filed March 13, 2006.

Claims 1, 8, 15, 19, and 26-28 have been amended. Claim 5 has been canceled.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-7 and 15-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification has not, as originally filed, disclosed that the component is configured to provide power to the RF transmission device. Also, it has no disclosure that the medical

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device, the medical device component, or a combination thereof is configured to communicate with the RF transmitter.

If Applicants contend that these are not new matter, a specific page and line numbers in the specification should be pointed out.

Claim Rejections - 35 USC § 103

5. Claims 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP2002049900A.

Claim 19:

JP 900 discloses a system, thus, a method for maintaining a medical device comprising:

- a. storing information regarding a component of the medical device in a radio frequency (RF) device coupled to the component;
- b. activating the radio frequency (RF) device; and
- a. and receiving the information regarding the component via a transmission from the RF device.

JP 900 fails to disclose remotely communicating with the RF device over a network.

However, it would have been obvious to one skilled in the art to communicate with the RF device over the network as desired.

Claim 20:

The method of activating in JP 900 comprises providing power to the RF device.

Claim 21:

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The method of activating in JP 900 comprises interrogating the R.F device via an R.F interrogator.

Claim 22:

It is not clearly stated in JP 900 that the method comprises determining a component list of the medical device via the information received from the RF device. However, one skilled in the art would have readily recognized that the reference implies this step since the list would be obtained from results from communications between the interrogator 8 and RF transmitter devices on several components associated with the medical device.

Claim 23:

The reference discloses that service information is managed, thus, it suggests determining whether service is warranted on the component of the medical device based upon the information received from the RF device.

Claim 24:

The reference implicitly suggests servicing of the medical device in response to the information received from the RF device.

Claim 25:

The reference fails to clearly state scheduling maintenance for the component of the medical device based upon the information received from the RF device. However, one skilled in the art would have readily recognized that since the device and method in JP 900 is used for managing service data, scheduling service would be part of the managing.

Claim 26:

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JP 900 discloses activating a radio frequency (RF) device having information regarding at least one of maintenance, installation, and manufacture of a component of the medical device; and receiving the information regarding the component via a transmission from the RF device. It is not clear that the RF device in JP 900 is of an active type. However, the use of active or passive RF device is old and conventional in the art. Thus, one skilled in the art would have readily recognized using an active RF device in the JP 900 as desired because an active RF device and a passive RF device are functionally equivalent.

Response to Arguments

6. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

7. Claims 1-4, 6-7 and 15-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

8. Claims 8-14 and 27-29 are allowed.

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Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Julie Lieu
Primary Examiner
Art Unit 2612

May 29, 06